

REMARKS

Claims 37, 38 and 40-49 are presented for consideration, with Claims 37, 41, 46 and 47 being independent. Claims 1-36, 39 and 50-52 have been cancelled without prejudice or disclaimer of the subject matter recited therein. Claims 37, 38, 40-42 and 45-49 have been amended to even further clarify certain features of Applicants' invention. Support for the amendments can be found, for example, in the specification on page 51, line 3, *et. seq.*, of the specification. As such, no new matter has been added.

Claims 19, 20, 36, 50 and 51 are rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. These claims have all been cancelled. As such, this rejection is moot.

Claims 1, 2, 4-7, 11, 12, 19, 37-39, 41, 42, and 44-52 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Nakajima '802 (U.S. Patent Application Publication No. 2001/0048802). Claims 3, 8-10, 13-18, 20, 40 and 43 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Nakajima '802 in view of Nakajima '821 (U.S. Patent Application Publication No. 2004/0012821). Claims 21-36 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Nakajima '802 in view of Komagamine (U.S. Patent Application Publication No. 2004/0252340). In view of the above amendments and the following remarks, the rejections are respectfully traversed.

According to the recording apparatus of the present invention recited in claim 37, the recording apparatus includes a reception unit that receives a layout condition specifying a layout of recording a plurality of items of image data from the image supply device, and a determination unit that determines whether or not a plurality of items of image data supplied

from the image supply device include a predetermined format of image data. If the plurality of items of image data do not include a predetermined format of image data, the recording apparatus records the plurality of items of image data supplied from the image supply device without overlapping with another image data in accordance with the layout condition. On the other hand, if the plurality of items of image data include the predetermined format of image data, the recording apparatus records the plurality of items of image data supplied from the image supply device by overlapping with another image data in accordance with the layout condition.

The Nakajima '802 is relied on, on page 7 of the Office Action, to teach, *inter alia*, a control means for controlling to record a plurality of items (citing paragraphs [0029] and [0075]). Nakajima '802 discloses that superposition image data is obtained by superposing image data set S0 (Fig. 5) with recommended composition data set R0 (Fig. 4). Applicant submits that Nakajima '802, however, does not teach or suggest a control unit controls the recording apparatus recording the plurality of items of image data supplied from the image supply device without overlapping with another image data in accordance with the layout condition in a case that the determination unit determines that the plurality of items of image data do not include the predetermined format of image data, and controls the recording apparatus to record the plurality of items of image data supplied from the image supply device by overlapping with another image data in accordance with the layout condition in a case that the determination unit determines that the plurality of items of image data include the predetermined format of image data, as recited in Claim 37. Rather, images in Nakajima '802 are set based on a user selected template and may or may not be recorded. *See*, for example, paragraphs [0068]-[0072]. As such, Applicants submit that Nakajima '802 fails to teach or suggest all of the features of the

present invention. Accordingly, the present inventions recited in Claim 37 is not anticipated by Nakajima '802.

Claim 41 relates to a control unit that controls the recording apparatus to record an image without overlapping with another image or controls the recording apparatus to record a specific image overlapping with another image, based on the determination of whether or not a plurality of images have the predetermined format. Claims 46 and 47 are method claims formed on the basis of Claims 37 and 41, respectively. Accordingly, Applicants submit that the present invention, as recited in Claims 41, 46 and 47, is not anticipated by Nakajima '802 and is patentable for substantially the same reasons discussed above with regards to Claims 37.

The secondary citation to Nakajima '821 is relied on, on page 12-19 of the Office Action, to compensate for various deficiencies of Nakajima '802. Nakajima '821 discloses updating of image processing control data. An image related data generator 10 sends specification data for specifying image processing control data to be updated to an update data server 12, and receives the update data from the update data server 12 and updates the image processing control data with the update data. Applicant submits that Nakajima '821, however, does not teach or suggest a control unit controls the recording apparatus to record the plurality of items of image data supplied from the image supply device without overlapping with another image data in accordance with the layout condition in a case that the determination unit determines that the plurality of items of image data do not include the predetermined format of image data, and controls the recording apparatus to record the plurality of items of image data supplied from the image supply device by overlapping with another image data in accordance with the layout condition in a case that the determination unit determines that the plurality of

items of image data include the predetermined format of image data. While Nakajima '821 describes that an image file may be JPEG format or PNG format or other formats, Nakajima '821 does not teach or suggest overlapping or not overlapping based on an image file format.

The secondary citation to Komagamine is relied on, on page 19-30 of the Office Action, to compensate for various deficiencies of Nakajima '802. Komagamine discloses image processing based on template data. As such, Applicant submits that Komagamine does not teach or suggest a control unit that controls the recording apparatus to record the plurality of items of image data supplied from the image supply device without overlapping with another image data in accordance with the layout condition in a case that the determination unit determines that the plurality of items of image data do not include the predetermined format of image data, and controls the recording apparatus to record the plurality of items of image data supplied from the image supply device by overlapping with another image data in accordance with the layout condition in a case that the determination unit determines that the plurality of items of image data include the predetermined format of image data. Rather, images in Komagamine are set and appropriately sized based on a user selected template.

Accordingly, since Nakajima '821 and Komagamine also fail teach or suggest the control means recited amended Claim 37, Applicants submit that amended Claim 37 is distinguishable from the cited references. Amended Claims 41, 46 and 47 are also patentable for the same reasons.

For the foregoing reasons, Applicant respectfully submits that the applied references, whether taken individually or in combination, do not teach or suggest the invention as recited in independent Claims 37, 41, 46 and 47

Reconsideration and withdrawal of the rejections of the claims under 35 U.S.C. §§102 and 103 is respectfully requested.

Thus, it is submitted that Applicants' invention as set forth in independent Claims 37, 41, 46 and 47 is patentable over the cited art. In addition, dependent Claims 38, 40, 42-45, 48 and 49 set forth additional features of Applicants' invention. Independent consideration of the dependent claims is respectfully requested.

Applicants request entry of the above amendments as they are being presented in an earnest effort to advance prosecution and place this application in condition for allowance. The amendments were not earlier presented as applicants were of the belief that the claims previously on file were allowable.

In view of the foregoing, reconsideration together with entry of the above amendments and allowance of this application is deemed to be in order and such action is respectfully requested.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

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